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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/672,114	09/26/2003	Juergen Wulf	GK-OEH-164 / 500814.20066	7763
7590	06/30/2005			EXAMINER EVANS, FANNIE L
Gerald H. Kiel, Esq. REED SMITH, LLP 599 Lexington Avenue New York, NY 10022-7650			ART UNIT 2877	PAPER NUMBER

DATE MAILED: 06/30/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

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<b>Office Action Summary</b>	Application No.	Applicant(s)	
	10/672,114	WULF ET AL.	
	Examiner	Art Unit	
	F. L. Evans	2877	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on September 26, 2003.
- 2a) This action is FINAL.                    2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-15 is/are pending in the application.
  - 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) 1-6, 10-13 and 15 is/are allowed.
- 6) Claim(s) 7-9 and 14 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on 26 September 2003 is/are: a) accepted or b) objected to by the Examiner.
 

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) All    b) Some \* c) None of:
    1. Certified copies of the priority documents have been received.
    2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- 1) Notice of References Cited (PTO-892)
- 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 0903,0304.
- 4) Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) Notice of Informal Patent Application (PTO-152)
- 6) Other: \_\_\_\_\_.

## DETAILED ACTION

### *Priority*

Receipt is acknowledged of papers submitted under 35 U.S.C. § 119(a)-(d), which papers have been placed of record in the file.

### *The Abstract*

The abstract of the disclosure is objected to because it is too long. Correction is required. See MPEP § 608.01(b).

The abstract should be in narrative form and generally limited to a single paragraph on a separate sheet within the range of 50 to 150 words. It is important that the abstract not exceed 150 words in length since the space provided for the abstract on the computer tape used by the printer is limited. The form and legal phraseology often used in patent claims, such as "means" and "said," should be avoided. The abstract should describe the disclosure sufficiently to assist readers in deciding whether there is a need for consulting the full patent text for details.

The language should be clear and concise and should not repeat information given in the title. It should avoid using phrases which can be implied, such as, "The disclosure concerns," "The disclosure defined by this invention," "The disclosure describes," etc.

### *The Information Disclosure Statements*

The prior art cited in the information disclosure statements filed on September 26, 2003 and March 15, 2004 has been considered. A copy of each initialed, signed and dated PTO-1449 accompanies this Office action.

### *Additional Prior Art*

Jones et al (US 2004/0036868 A1) disclose a multi-modality fluorescence reference plate for calibrating fluorescent plate readers and imaging systems. Jones et al has an effective filing date between applicant's priority date and the filing date of this application.

*Claim Rejections - 35 USC § 112*

The following is a quotation of the second paragraph of 35 U.S.C. § 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 7-9 and 14 are rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

The lack of an antecedent for "the filter layer" in line 2 of claim 7 and line 5 of claim 14 and "the layers" in line 1 of claim 8 and line 3 of claim 9 renders these claims and any claim dependent therefrom indefinite. Correction is required.

Regarding line 3 of claim 9, the word "particularly" renders the claim indefinite because it is unclear whether the limitations following the word are part of the claimed invention. See MPEP § 2173.05(d).

*Allowable Subject Matter*

Claims 1-6, 10-13 and 15 are allowed over the prior art of record.

Claims 7-9 and 14 would be allowable if rewritten or amended to overcome the rejection under 35 U.S.C. § 112, 2nd paragraph, set forth in this Office action.

As to independent claim 1 the prior art of record, taken alone or in combination, fails to disclose or render obvious a device for calibrating an optical detection channel for a two-dimensional, spatially dependent radiation measurement for multi-specimen carriers comprising a luminescent foil being provided inside the housing which is arranged parallel to the window of the housing so as to cover its surface; and a power source and control units being provided in the housing for controlling the luminescent foil, so that the luminescent foil can be controlled for homogeneous emission of luminescent light through the window of the housing in different intensity levels, in combination with the rest of the limitations of the claim.

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*Fax/Telephone Numbers*

Papers related to this application may be submitted to Technology Center 2800 by facsimile transmission. The faxing of such papers must conform with the notice published in the Official Gazette, 1096 OG 30 (November 15, 1989). The fax number for Technology Center 2800 is (703) 872-9306 for regular and After Final communications.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to the examiner whose telephone number is (571) 272-2414. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gregory J. Toatley, Jr., can be reached on (571) 272-2800 ext 77.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



**F. L. EVANS**  
**PRIMARY EXAMINER**  
**ART UNIT 2877**

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June 24, 2005